

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

MARCRESSE McCOY

Criminal Action No. 98-5 Erie

Civil Action No. 02-182 Erie

ORDER OF JUDGMENT

____ AND NOW this 2nd day of February 2006, upon consideration of the Defendant's motion for relief under 28 U.S.C. § 2255, and for the reasons set forth in the Court's findings of fact and conclusions of law being filed contemporaneously herewith, IT IS HEREBY ORDERED as follows:

1. Petitioner's request for habeas corpus relief on his convictions and sentences relative to Counts 1 through 3 of the Superseding Indictment is GRANTED;

2. The execution of the writ of habeas corpus is STAYED for 120 days from the date of this Order, during which time the United States may conduct a new trial;

3. After 120 days, should the United States not conduct a new trial, the writ shall issue and the United States shall release the Defendant consistent with the foregoing findings of fact and conclusions of law; and

4. In the event the United States files an appeal to the United States Court of Appeals for the Third Circuit,¹ this Order will be stayed pending the outcome of such appellate proceedings.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
UNITED STATES DISTRICT COURT JUDGE

cc: All counsel of record.

¹ No certificate of appealability need be issued in order for the government to appeal this Order of Judgment. See Fed. R. App. P. 22(b)(3).